

House File 702 - Reprinted

HOUSE FILE _____
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HSB 130)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the responsibilities of divisions within the
2 department of workforce development, including training for
3 occupational safety and health inspections and investigations,
4 and workers' compensation.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 1 Section 1. Section 85.27, subsection 7, Code 2005, is
1 2 amended to read as follows:
1 3 7. If, after the third day of incapacity to work following
1 4 the date of sustaining a compensable injury which does not
1 5 result in permanent partial disability, or if, at any time
1 6 after sustaining a compensable injury which results in
1 7 permanent partial disability, an employee, who is not
1 8 receiving weekly benefits under section 85.33 or section
1 9 85.34, subsection 1, returns to work and is required to leave
1 10 work for one full day or less to receive services pursuant to
1 11 this section, the employee shall be paid an amount equivalent
1 12 to the wages lost at the employee's regular rate of pay for
1 13 the time the employee is required to leave work. For the
1 14 purposes of this subsection, "day of incapacity to work" means
1 15 eight hours of accumulated absence from work due to incapacity
1 16 to work or due to the receipt of services pursuant to this
1 17 section. The employer shall make the payments under this
1 18 subsection as wages to the employee after making such
1 19 deductions from the amount as legally required or customarily
1 20 made by the employer from wages. Payments made under this
1 21 subsection shall be required to be reimbursed pursuant to any
1 22 insurance policy covering workers' compensation. Payments
1 23 under this subsection shall not be construed to be payment of
1 24 weekly benefits.

1 25 Sec. 2. Section 85.35, Code 2005, is amended to read as
1 26 follows:

1 27 85.35 ~~SETTLEMENT IN CONTESTED CASE~~ SETTLEMENTS.

1 28 1. The parties to a contested case or persons who are
1 29 involved in a dispute which could culminate in a contested
1 30 case may enter into a settlement of any claim arising under
1 31 this chapter or chapter 85A, 85B, or 86, providing for final
1 32 disposition of the claim, ~~provided that no final disposition~~
1 33 ~~affecting rights to future benefits may be had when the only~~
1 34 ~~dispute is the degree of disability resulting from an injury~~
1 35 ~~for which an award for payments or agreement for settlement~~
2 1 ~~under section 86.13 has been made.~~ The settlement shall be in
2 2 writing on forms prescribed by the workers' compensation
2 3 commissioner and submitted to the workers' compensation
2 4 commissioner for approval.

2 5 2. The parties may enter into an agreement for settlement
2 6 that establishes the employer's liability, fixes the nature
2 7 and extent of the employee's current right to accrued
2 8 benefits, and establishes the employee's right to statutory
2 9 benefits that accrue in the future.

2 10 3. The parties may enter into a compromise settlement of
2 11 the employee's claim to benefits as a full and final
2 12 disposition of the claim.

2 13 4. The parties may enter into a settlement that is a
2 14 combination of an agreement for settlement and a compromise
2 15 settlement that establishes the employer's liability for part

~~2 16 of a claim but makes a full and final disposition of other
2 17 parts of a claim.~~

~~2 18 5. A contingent settlement may be made and approved,
2 19 conditioned upon subsequent approval by a court or
2 20 governmental agency, or upon any other subsequent event that
2 21 is expected to occur within one year from the date of the
2 22 settlement. If the subsequent approval or event does not
2 23 occur, the contingent settlement and its approval may be
2 24 vacated by order of the workers' compensation commissioner
2 25 upon a petition for vacation filed by one of the parties or
2 26 upon agreement by all parties. If a contingent settlement is
2 27 vacated, the running of any period of limitation provided for
2 28 in section 85.26 is tolled from the date the settlement was
2 29 initially approved until the date that the settlement is
2 30 vacated, and the claim is restored to the status that the
2 31 claim held when the contingent settlement was initially
2 32 approved. The contingency on a settlement lapses and the
2 33 settlement becomes final and fully enforceable if an action to
2 34 vacate the contingent settlement or to extend the period of
2 35 time allowed for the subsequent approval or event to occur is
3 1 not initiated within one year from the date that the
3 2 contingent settlement was initially approved.~~

~~3 3 6. The parties may agree that settlement proceeds, which
3 4 are paid in a lump sum, are intended to compensate the injured
3 5 worker at a given monthly or weekly rate over the life
3 6 expectancy of the injured worker. If such an agreement is
3 7 reached, neither the weekly compensation rate which either has
3 8 been paid, or should have been paid, throughout the case, nor
3 9 the maximum statutory weekly rate applicable to the injury
3 10 shall apply. Instead, the rate set forth in the settlement
3 11 agreement shall be the rate for the case.~~

~~3 12 The settlement shall not be approved unless evidence of a
3 13 bona fide dispute exists concerning any of the following:~~

~~3 14 1. The claimed injury arose out of or in the course of the
3 15 employment.~~

~~3 16 2. The injured employee gave notice under section 85.23.~~

~~3 17 3. Whether or not the statutes of limitations as provided
3 18 in section 85.26 have run. When the issue involved is whether
3 19 or not the statute of limitations of section 85.26, subsection
3 20 2, has run, the final disposition shall pertain to the right
3 21 to weekly compensation unless otherwise provided for in
3 22 subsection 7 of this section.~~

~~3 23 4. The injury was caused by the employee's willful intent
3 24 to injure the employee's self or to willfully injure another.~~

~~3 25 5. Intoxication, which did not arise out of and in the
3 26 course of employment but which was due to the effects of
3 27 alcohol or another narcotic, depressant, stimulant,
3 28 hallucinogenic, or hypnotic drug not prescribed by an
3 29 authorized medical practitioner, was a substantial factor in
3 30 causing the employee's injury.~~

~~3 31 6. The injury was caused by the willful act of a third
3 32 party directed against the employee for reasons personal to
3 33 such employee.~~

~~3 34 7. This chapter or chapter 85A, 85B, 86 or 87 applies to
3 35 the party making the claim.~~

~~4 1 8. A substantial portion of the claimed disability is
4 2 related to physical or mental conditions other than those
4 3 caused by the injury.~~

~~4 4 7. A settlement shall be approved by the workers'
4 5 compensation commissioner if the parties show all of the
4 6 following:~~

~~4 7 a. Substantial evidence exists to support the terms of the
4 8 settlement.~~

~~4 9 b. Waiver of the employee's right to a hearing, decision,
4 10 and statutory benefits is made knowingly by the employee.~~

~~4 11 c. The settlement is a reasonable and informed compromise
4 12 of the competing interests of the parties.~~

~~4 13 If an employee is represented by legal counsel, it is
4 14 presumed that the required showing for approval of the
4 15 settlement has been made.~~

~~4 16 8. Approval of a settlement by the workers' compensation
4 17 commissioner shall be is binding on the parties and shall not
4 18 be construed as an original proceeding. Notwithstanding any
4 19 provisions of this chapter and chapters 85A, 85B, 86, and 87,
4 20 an approved compromise settlement shall constitute a final bar
4 21 to any further rights arising under this chapter and chapters
4 22 85A, 85B, 86, and 87. Such regarding the subject matter of
4 23 the compromise and a payment made pursuant to a compromise
4 24 settlement agreement shall not be construed as the payment of
4 25 weekly compensation.~~

~~4 26 Sec. 3. Section 85.38, subsection 2, unnumbered paragraph~~

4 27 2, Code 2005, is amended to read as follows:

4 28 If an employer denies liability under this chapter, chapter
4 29 85A, or chapter 85B, for payment for any medical services
4 30 received ~~or weekly compensation requested by an employee with~~
~~4 31 a disability~~, and the employee is a beneficiary under either
4 32 an individual or group plan for nonoccupational illness,
4 33 injury, or disability, the nonoccupational plan shall not deny
4 34 payment ~~for the medical services received of benefits under~~
~~4 35 the plan~~ on the basis that the employer's liability ~~for the~~
~~5 1 medical services~~ under this chapter, chapter 85A, or chapter
5 2 85B is unresolved.

5 3 Sec. 4. Section 85.71, Code 2005, is amended by adding the
5 4 following new subsection:

5 5 NEW SUBSECTION. 5. The employer has a place of business
5 6 in Iowa, and the employee is working under a contract of hire
5 7 which provides that the employee's workers' compensation
5 8 claims be governed by Iowa law.

5 9 Sec. 5. Section 86.24, subsection 4, Code 2005, is amended
5 10 to read as follows:

5 11 4. A transcript of a contested case proceeding shall be
5 12 provided by an appealing party at the party's cost ~~and an~~
~~5 13 affidavit shall be filed by the appealing party or the party's~~
~~5 14 attorney with the workers' compensation commissioner within~~
~~5 15 ten days after the filing of the appeal to the workers'~~
~~5 16 compensation commissioner stating that the transcript has been~~
~~5 17 ordered and identifying the name and address of the reporter~~
~~5 18 or reporting firm from which the transcript has been ordered.~~

5 19 Sec. 6. Section 87.14A, Code 2005, is amended to read as
5 20 follows:

5 21 87.14A INSURANCE OR BOND REQUIRED.

5 22 An employer subject to this chapter and chapters 85, 85A,
5 23 85B, and 86 shall not engage in business without first
5 24 obtaining insurance covering compensation benefits or
5 25 obtaining relief from insurance as provided in this chapter ~~or~~
~~5 26 furnishing a bond pursuant to section 87.16.~~ A person who
5 27 willfully and knowingly violates this section is guilty of a
5 28 class "D" felony.

5 29 Sec. 7. Section 87.19, unnumbered paragraph 1, Code 2005,
5 30 is amended to read as follows:

5 31 Upon the receipt of information by the workers'
5 32 compensation commissioner of any employer failing to comply
5 33 with ~~sections 87.16 and 87.17~~ section 87.14A, the commissioner
5 34 shall at once notify such employer by certified mail that
5 35 unless such employer comply with the requirements of law,
6 1 legal proceedings will be instituted to enforce such
6 2 compliance.

6 3 Sec. 8. Section 87.20, Code 2005, is amended to read as
6 4 follows:

6 5 87.20 REVOCATION OF RELEASE FROM INSURANCE.

6 6 The insurance commissioner ~~with the concurrence of the~~
~~6 7 workers' compensation commissioner~~ may, at any time, upon
6 8 reasonable notice to such employer and upon hearing, revoke
6 9 for cause any order theretofore made relieving any employer
6 10 from carrying insurance as provided by this chapter.

6 11 Sec. 9. Section 88.2, subsection 1, Code 2005, is amended
6 12 to read as follows:

6 13 1. The labor commissioner, appointed pursuant to section
6 14 91.2, and the division of labor services of the department of
6 15 workforce development created in section 84A.1 shall
6 16 administer this chapter. The labor commissioner's primary
6 17 responsibility in administering this chapter shall be to make
6 18 workplace safety the predominant concern, ensuring consistent
6 19 enforcement interpretations and agency policies that support
6 20 the state's general business climate.

6 21 Sec. 10. Section 88.16, subsection 1, Code 2005, is
6 22 amended to read as follows:

6 23 1. The commissioner shall conduct directly or by contract,
6 24 educational programs to provide an adequate supply of
6 25 qualified personnel to administer this chapter and
6 26 informational programs on the importance of and proper use of
6 27 adequate safety and health equipment. The commissioner shall
6 28 provide continuous and timely documentation of all training
6 29 completed by the commissioner and the commissioner's
6 30 representatives, the dates on which the training was
6 31 completed, a record of the commissioner's and the
6 32 commissioner's representatives' inspection experience within
6 33 the defined sectors of the North American industry
6 34 classification system, and the dates on which the experience
6 35 was obtained, and shall make the information documented
7 1 available upon request.

7 2 Sec. 11. Sections 87.16 and 87.17, Code 2005, are

7 3 repealed.
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